THE HON'BLE SRI JUSTICE E. DHARMA RAO

W.P.No. 23533 of 2005

This writ petition is filed by the workman being aggrieved by the award made in I.D.No. 169/93, dated 9-12-1995 on the file of the Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar District insofar as denying the continuity of service, back wages and attendant benefits, while granting the relief of fresh appointment.

It is the case of the petitioner that he was appointed in the service of A.P. State Road Transport Corporation (for short the "APSRTC") as conductor in the year 1992. Since his appointment he had been performing his duties to the utmost satisfaction of his superiors. While so, when he was conducting bus bearing AEZ 974 on the route Pegadapally to Deekonda on 14-5-1993 a check was exercised by the checking officials at stage No.10 and found certain cash and ticket irregularities and on the basis of the same, a charge sheet, dated 25-5-1993 was issued enumerating the following charges:

> *"1. For having failed to observe the rule 'Issue and Start' which constitutes misconduct under Reg.28(xxxi) of APSRTC Employees (conduct) Regulations, 1963.*
>
> *2. For having failed to issue tickets to a batch of two passengers boarded your bus at Deekonda stage No.11 and found alighting at Pegadapally, stage No.10 without tickets even after collecting the requisite fare from them at their boarding itself, which constitutes misconduct under Reg.28(vi) (a) of APSRTC Employees (conduct) Regulations, 1963.*
>
> *3. For having failed to issue the tickets to 10 individual passengers boarded your bus at stage No.11/10 Macherla and found alighting at stage No.10Pegadapalli without tickets even after collecting the requisite fare from them at their boarding point itself which constitutes misconduct under Reg.28(vi)(a) of APSRTC Employees (conduct) Regulations, 1963.*
>
> *4. For having closed all denominations in your S.R. upto stage Nio.10 without issuing the tickets to the above 12 passengers which constitutes misconduct under Reg.28((xxxi) of APSRTC Employees (conduct) Regulations, 1963."*

The explanation submitted to the charge sheet by the petitioner

was not accepted and as such ordered for a detailed enquiry into the matter. The enquiry officer conducted the enquiry in gross violation of principles of natural justice. Finally after issuing a show cause notice he was removed from service on 11-10-1993. Aggrieved by the same the petitioner preferred an appeal and the same was also dismissed. Therefore, having no other option, the petitioner raised an industrial dispute U/s 2-A (2) of the Industrial Disputes Act, 1947 (for short the "Act") before the Industrial Tribunal-cum-Labour Court and the same was taken up as I.D.No. 169/93 on its file. The Labour Court after going through the evidence, both oral and documentary, though came to the conclusion that the removal from service is disproportionate to the gravity of misconduct committed by the workman, granted the relief of reinstatement into service as a fresh conductor and denied continuity of service, back wages and other terminal benefits. According to the petitioner the award passed by the Labour Court is arbitrary and illegal insofar as not granting the relief of continuity of service, back wages and other terminal benefits.

A detailed counter affidavit has been filed by the respondent-APSRTC denying the allegations made by the petitioner and supporting the award made by the Labour Court. It is further stated that the Labour Court itself has taken a lenient view in the matter and directed the management to reinstate the petitioner into service as a fresh conductor and in the circumstances, the petitioner is not entitled for any further relief. The award passed by the Labour Court is just and reasonable and does call for interference of this Court under Article 226 of the Constitution of India.

I have given my anxious consideration to the submissions made by the learned counsel on either side and perused the award passed by the Labour Court and the other material made available on record. At the outset I am of the opinion that the Labour Court has not committed any error warranting interference of this Court under Article 226 of the Constitution of India. Admittedly the petitioner was appointed as a daily wage worker with effect from 2-4-1993 and when the petitioner was conducting the bus a check was exercised on 14-5-1993 and found certain irregularities as noticed above. The

misconduct of the petitioner is grave in nature. He did not issue tickets as many as twelve passengers in the bus even after collecting the requisite fare and further the petitioner's dishonesty is proved since he has closed the S.R. upto stage No.10. However, this being the first misconduct the Labour Court took lenient view in the matter and granted the relief of reinstatement as fresh conductor. Any further relief such as granting of continuity in service, attendant benefits and back wages is nothing but a reward to the misconduct. Apparently the petitioner had only one year service left before termination of his service in the year 1993. Therefore the Labour Court, very rightly, came to the conclusion that the petitioner is not entitled for continuity of service, attendant benefits and back wages. In fact the Labour Court has taken a lenient view in the matter and directed the respondent-management to reinstate the petitioner into service as a fresh conductor to give him an opportunity. Therefore, the Labour Court has not committed any error warranting interference of this court under Article 226 of the Constitution of India. The writ petition is devoid of merit and is liable to be dismissed.

The writ petition is accordingly dismissed. There shall be no order as to costs.

19th August, 2005

BJ/

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH: AT HYDERABAD.

The Hon'ble Sri Justice C.V. Ramulu

W.P.No. 23533 of 1998

Dated: 17th August, 2005

Between:

K. Mallikarjuna Rao …Petitioenr

And

The Presiding Officer, Industrial Tribunal-

Cum-Labour Court,

Godavarikhani & Ors. …Respondents.